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8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2015-36

13 **MICHAEL J. BARR**
14 **828 Maria Avenue**
15 **La Verne, CA 91750**
16 **Field Representative's License No. FR 44788**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

17 Respondent.

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19 **FINDINGS OF FACT**

20 1. On or about February 9, 2015, Complainant Susan Saylor, in her official capacity as
21 the Registrar/Executive Officer of the Structural Pest Control Board, Department of Consumer
22 Affairs, filed Accusation No. 2015-36 against Michael J. Barr (Respondent) before the Structural
23 Pest Control Board. (Accusation attached as **Exhibit A.**)

24 2. On or about September 24, 2009, the Structural Pest Control Board (Board) issued
25 Field Representative's License No. FR 44788 to Respondent. The Field Representative's License
26 was in full force and effect at all times relevant to the charges brought in Accusation No. 2015-36
27 and will expire on June 30, 2015, unless renewed.
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1 3. On or about February 9, 2015, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 2015-36, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 136, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is: **828 Maria Avenue, La Verne, CA 91750.**

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts
13 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
15 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
16 2015-36.

17 7. California Government Code section 11520 states, in pertinent part:

18 (a) If the respondent either fails to file a notice of defense or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions
20 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Accusation No. 2015-36, finds
26 that the charges and allegations in Accusation No. 2015-36, are separately and severally, found to
27 be true and correct by clear and convincing evidence.
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9. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$3,282.50 as of March 23, 2015.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Michael J. Barr has subjected his Field Representative's License No. FR 44788 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Structural Pest Control Board is authorized to revoke Respondent's Field Representative's License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Section 490 and 8649 in conjunction with California Code of Regulations, Title 16, section 1937.1, in that Respondent was convicted of crimes substantially related to the qualifications, functions, or duties of a licensed field representative and applicator.

b. Section 8637, in that Respondent made misrepresentations to the Board by failing to disclose three (3) of his prior convictions when he applied to the Board for a Field Representative License on March 24, 2009 and for an Applicator's License on July 29, 2008.

c. The Board alleged as “Disciplinary Considerations”, Respondent’s conviction of one misdemeanor count of harassment via telephone – domestic violence, in the criminal proceeding entitled *The People of the State of Colorado v. Michael J. Barr* (Super Ct. Boulder County, 1997, No. 97M002749).

ORDER

IT IS SO ORDERED that Field Representative's License No. FR 44788, heretofore issued to Respondent Michael J. Barr, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within

1 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
2 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

3 This Decision shall become effective on June 3, 2015.

4 It is so ORDERED May 4, 2015

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8 FOR THE STRUCTURAL PEST CONTROL
9 BOARD
10 DEPARTMENT OF CONSUMER AFFAIRS

11 51730641.DOCX
12 DOJ Matter ID:LA2014513035

13 Attachment:
14 Exhibit A: Accusation
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